S.B.CIVIL WRIT PETITION NO.4159/2006

Rajendra Singh Bhati
v.
State of Rajasthan & Ors.

Date of Order :: 5th December, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Kuldeep Mathur, for the petitioner.
Mr. K.L.Thakur, Additional Advocate General.
Mr. Shyam Ladrecha, Additional Government Advocate.

....

The petitioner faced selection proceedings for the purpose of appointment as Constable in accordance with the Rajasthan Police Subordinate Service Rules, 1989 (hereinafter referred to as "the Rules of 1989"), however, despite selection appointment was not given to him on the count that he faced a criminal trial that resulted into acquittal. The appointment was denied to the petitioner on the pretext that Hon'ble Supreme Court in the case of Delhi Administration v. Sushil Kumar, reported in (1996)11 SCC 605, held that verification of the character and antecedents is one of the important criteria to test whether the selected candidate is suitable to a post under the State. Being aggrieved by denial of appointment, this petition for writ is preferred.

It is contended by counsel for the petitioner that the petitioner while submitting application to be

considered for appointment as Constable disclosed the fact that he faced a criminal trial and stood acquitted from the charges alleged by a competent court. It is asserted that Hon'ble Supreme Court in the case of Delhi Administration (supra) nowhere stated that appointment should not be given to a person who faced criminal trial and acquitted.

Per contra, in reply to the writ petition it is stated by the respondents that according to law laid down by Hon'ble Supreme Court in the case of Delhi Administration (supra) no person who faced trial for criminal charges is entitled for appointment in services of the State.

Heard counsel for the parties.

It is the position admitted that appointment was denied to the petitioner only in view of the judgment of Hon'ble Supreme Court in the case of Delhi Administration (supra). In the aforesaid case a person selected was not given appointment as on verification of the character his antecedents were not found suitable to be employed in government service. The Central Administrative Tribunal while accepting an original application preferred by the person concerned ordered that the person concerned is entitled for appointment being acquitted from the criminal charges. In the background above, Hon'ble Supreme Court held

that while making appointment to the government service the verification and antecedents of a person is one of the important criteria to test whether such a selected person is suitable to a post under the State or not. It does not mean that there is a blanket ban on appointment of the persons who has faced criminal trial or are facing criminal trial. The only requirement of law is that before making appointment of any person to government service verification of character and antecedents are required to be taken into consideration.

In the instant matter the respondents without application of mind and merely on the count that the petitioner faced a criminal trial that resulted into an acquittal denied appointment by applying the law laid down by Hon'ble Supreme Court in the case of Delhi Administration (supra). I am of the considered opinion that the application of judgment referred above without getting the character verification of the petitioner and without examining his antecedents by proper application of mind, is no bearing in present matter. The respondents should have first made proper verification of the character and his antecedents and should have to make a definite opinion that character and antecedents of the petitioner are such that he is not suitable for appointment in government service.

In view of whatever discussed above, the denial of appointment to the petitioner under the orders dated 23.3.2006 (Anx.6) and the communication dated 15.6.2006 (Anx.7) is illegal. The respondents, therefore, are directed to reconsider the candidature of the petitioner for appointment as Constable in Rajasthan Police by making proper character verification and by examining his antecedents in accordance with law.

The writ petition is allowed in terms above.

(GOVIND MATHUR),J.

kkm/ps.